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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,388

12/19/2005

Toshiyuki Komatsu

IS-US030796

6159

22919 7590 02/20/2008
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EXAMINER

GIBSON, RANDY W

ART UNIT

PAPER NUMBER

2841

MAIL DATE

DELIVERY MODE

02/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/561,388	Applicant(s) KOMATSU ET AL.	
	Examiner Randy W. Gibson	Art Unit 2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 16 January 2008 have been fully considered but they are not persuasive. Applicant seems to be suggesting that since the support elements 1 & 2 of the Japanese reference are not directly connected to its drive mechanism 5A, then 1 & 2 cannot correspond to the "first and second" support members" claimed. First of all, the examiner disagrees, since the claims as worded only require that the support members be "operatively coupled" to the "rotation motor". This language is sufficiently broad enough to cover the drive mechanism shown by the Japanese reference, where the cam 5A is indirectly "coupled" to the support members 1 & 2 via the link 3 and the trough T1. There seems to be no language in the claims that would limit the scope of the claim to the coupling mechanism shown in applicant's figures 3 (a) & 3(b), which applicant seems to be arguing. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Second of all, the examiner notes that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura (US # 5,445,261) in view of Sahlberg (US # 5,467,859), Kubota (JP 50-21274 Y1) and Shinko (JP 57-175612 A). Kimura disclose transport apparatus including a trough (17), a first protruding part (22a), a reciprocating mechanism (42), and a depressed part (20a). Kimura disclose the claimed invention except for the limitation that the vibration is asymmetric, and the drive mechanism consisting of a rotational motor and a parallel linkage. Sahlberg teach that it is known to vibrate a conveyor such that it accelerates faster in one direction than the other in order to insure that the material moves in one direction only (Col. 2, lines 15-30). According to the JPO, this same idea is also shown by the example of Shinko. It would have been obvious to the ordinary practioner to use an asymmetric drive means, as suggested by Sahlberg, for the vibrational conveyor of Kimura for efficiency.

As noted by the JPO, Shinko teaches that the use of a rotational motor combined with a parallel linkage is a known drive means for a vibrating tray, and therefore it would have been obvious to substitute the drive means of Shinko for its functional equivalent drive means in Kimura based on its art recognized suitability for its intended use. See ***MPEP*** §§ 2144.06 & 2144.07.

The limitations in some of the claims that mention various alternative locations for the protruding and depressed parts (on the side, facing certain directions, etc.) do not add any patentable weight since it would have been obvious to simply relocate parts. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950); and, **MPEP** § 2144.04.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit: 2841

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/Randy W. Gibson/
Primary Examiner, Art Unit 2841

Randy W. Gibson
Primary Examiner
Art Unit 2841